

JUL 16 2008

**Board of Vocational Nursing  
and Psychiatric Technicians**

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**BEFORE THE  
DEPARTMENT OF CONSUMER AFFAIRS  
FOR THE BUREAU OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-1174

**BELINDA LOUISE WASHINGTON**  
1111 Spyglass Parkway  
Vallejo, California, 94591

**A C C U S A T I O N**

Vocation Nurse License Number VN 158415

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about July 2, 1992, the Bureau of Vocational Nursing and Psychiatric Technicians (Bureau) issued Vocational Nurse License Number VN 158415 to Belinda Louise Washington (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2009, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Director of Consumer Affairs (Director) for the Bureau of Vocational Nursing and Psychiatric Technicians, under the authority

1 of the following laws. All section references are to the Business and Professions Code unless  
2 otherwise indicated.

3 4. Pursuant to Business and Professions Code (Code) sections 101.1(b) and  
4 150, after July 1, 2008, the Department of Consumer Affairs (Department) has succeeded to and  
5 is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the Board and  
6 its executive officer, and, accordingly, any reference to the inoperative or repealed Board in this  
7 Accusation shall be construed to refer to the Director of Consumer Affairs, who has control over  
8 the Department.

9 5. Section 2875 of the Business and Professions Code (Code) provides, in  
10 pertinent part, that the Board may discipline the holder of a vocational nurse license for any  
11 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice  
12 Act.

13 6. Section 118(b) of the Code provides, in pertinent part, that the expiration  
14 of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during  
15 the period within which the license may be renewed, restored, reissued or reinstated. Under  
16 section 2892.1 of the Code, the Bureau may renew an expired license at any time within four  
17 years after the expiration.

### 18 STATUTORY PROVISIONS

19 7. Section 2878 of the Code states:  
20 "The Board may suspend or revoke a license issued under this chapter [the  
21 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:  
22 (a) Unprofessional conduct, which includes, but is not limited to, the following:  
23 (1) Incompetence, or gross negligence in carrying out usual nursing functions.

24 ...

25 8. Section 2878.5 of the Code states:  
26 In addition to other acts constituting unprofessional conduct within the meaning  
27 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person  
28 licensed under this chapter to do any of the following:

1 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
2 licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or  
3 administer to another, any controlled substance as defined in Division 10 of the Health and  
4 Safety Code, or any dangerous drug as defined in Section 4022.

5 9. California Code of Regulations, title 16, section 2519, states:

6 As set forth in Section 2878 of the Code, gross negligence is deemed  
7 unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 'gross  
8 negligence' means a substantial departure from the standard of care which, under similar  
9 circumstances, would have ordinarily been exercised by a competent licensed vocational nurse,  
10 and which has or could have resulted in harm to the consumer. An exercise of so slight a degree  
11 of care as to justify the belief that there was a conscious disregard or indifference for the health,  
12 safety, or welfare of the consumer shall be considered a substantial departure from the above  
13 standard of care.

14 10. California Code of Regulations, title 16, section 2520, states:

15 As set forth in Section 2878 of the Code, incompetence is deemed unprofessional  
16 conduct and is a ground for disciplinary action. As used in Section 2878 'incompetence' means  
17 the lack of possession of and the failure to exercise that degree of learning, skill, care and  
18 experience ordinarily possessed and exercised by responsible licensed vocational nurses.

19 **DANGEROUS DRUGS/ CONTROLLED SUBSTANCES**

20 11. Section 4021 of the Code states:

21 "Controlled substance" means any substance listed in Chapter 2 (commencing  
22 with Section 11053) of Division 10 of the Health and Safety Code."

23 12. Section 4022 of the Code states:

24 "Dangerous drug" or "dangerous device" means any drug or device unsafe for  
25 self-use, except veterinary drugs that are labeled as such, and includes the following:

26 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing  
27 without prescription," "Rx only," or words of similar import.

28 "(b) Any device that bears the statement: "Caution: federal law restricts this

1 device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the  
2 blank to be filled in with the designation of the practitioner licensed to use or order use of the  
3 device.

4 "(c) Any other drug or device that by federal or state law can be lawfully  
5 dispensed only on prescription or furnished pursuant to Section 4006."

6 13. **Morphine sulfate** is a Schedule II controlled substance as designated by  
7 Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug per  
8 Business and Professions Code section 4022.

#### 9 **COSTS**

10 14. Section **125.3** of the Code provides, in pertinent part, that the Board may  
11 request the administrative law judge to direct a licentiate found to have committed a violation or  
12 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
13 and enforcement of the case.

#### 14 **FACTUAL SUMMARY**

15 15. On or about December 12, 2006, Respondent was on duty as a licensed  
16 vocational nurse at Napa Nursing Center in Napa, California. Respondent was assigned to care  
17 for patient K.C.<sup>1</sup>

18 16. On December 11, 2006, patient K.C.'s physician had prescribed "MS  
19 Contin<sup>2</sup> 100 mg po/pr qid for chronic pain."

20 17. Although Respondent was aware of the physician's order, on two  
21 occasions during her shift she administered 300 mg of morphine sulfate to patient K.C. instead of  
22 100 mg. Respondent later stated that she did this because she felt that patient K.C. needed a  
23 higher dose than the prescribed dose in order to achieve pain relief.

24 ///

25 ///

26 \_\_\_\_\_  
27 1. The identity of patient K.C. is withheld to protect patient privacy.

28 2. MS Contin is a trade name for morphine sulfate.

1                                   **FIRST CAUSE FOR DISCIPLINE**

2                                   (Unlawful Prescription and Furnishing of Drugs)

3                   18.     Respondent is subject to disciplinary action under section 2878.5(a) of the  
4 Code in that she prescribed, administered and/or furnished drugs to a patient in the absence of  
5 direction by a licensed physician, as set forth above in paragraphs 15 through 17.

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7                                   **SECOND CAUSE FOR DISCIPLINE**

8                                   (Gross Negligence/Incompetence)

9                   19.     Respondent is subject to disciplinary action under section 2878(a)(1) of  
10 the Code in that she committed gross negligence and incompetence, as set forth above in  
11 paragraphs 15 through 17.

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13                                  **THIRD CAUSE FOR DISCIPLINE**

14                                  (Unprofessional Conduct)

15                   20.     Respondent is subject to disciplinary action under section 2878(a) of the  
16 Code in that she committed unprofessional conduct, as set forth above in paragraphs 15 through  
17 17.

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19     ///

20     ///

21                                  **PRAYER**

22                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
23 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

24                   1.     Revoking or suspending Vocational Nurse License Number 158415,  
25 issued to Belinda Louise Washington;

26                   2.     Ordering Belinda Louise Washington to pay the Bureau of Vocational  
27 Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of  
28 this case, pursuant to Business and Professions Code section 125.3;

1                   3.     Taking such other and further action as deemed necessary and proper.

2  
3     DATED: December 16, 2008

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5  
6                   

7     TERESA BELLO-JONES, J.D., M.S.N., R.N.  
8     Executive Officer  
9     Bureau of Vocational Nursing and Psychiatric Technicians  
10    Department of Consumer Affairs  
11    State of California  
12    Complainant